

**ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

In the Matter of the Mortgage Broker License of:

No. 09F-BD048-BNK

**MMCR MORTGAGE, LLC  
AND MARIBEL PERAZA, MEMBER**  
4105 N. 20<sup>th</sup> Street #130  
Phoenix, Arizona 85016

**NOTICE OF HEARING**

Petitioners.

(Assigned to ALJ Diane Mihalsky )

PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-137, 6-138, and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative Hearings, an independent agency, and is scheduled for January 16, 2009, at 9:00 a.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the "Hearing").

The purpose of the Hearing is to determine if grounds exist for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the suspension or revocation of Petitioners' license pursuant to A.R.S. § 6-905; and (4) an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers pursuant to A.R.S. §§ 6-123 and 6-131.

Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to preside over the Hearing as the Administrative Law Judge, to make written recommendations to the Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office of Administrative Hearings has designated Diane Mihalsky, at the address and phone number listed

1 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative  
2 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the  
3 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final  
4 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law  
5 Judge is specifically prohibited from entering.

6 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**  
7 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue  
8 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of  
9 Administrative Hearings.

10 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by  
11 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable  
12 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence  
13 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative  
14 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S.  
15 § 41-1092.07(B), any person may appear on his or her own behalf or by counsel.

16 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be  
17 made by a court reporter or by electronic means. Any party that requests a transcript of the  
18 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

19 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant  
20 Attorney General Craig A. Raby, (602) 542-8935, 1275 West Washington, Phoenix, Arizona 85007.

### 21 **NOTICE OF APPLICABLE RULES**

22 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")  
23 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting  
24 forth the rules of practice and procedure applicable in contested cases and appealable agency actions  
25 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules  
26 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through

1 R2-19-122. A copy of these rules is enclosed.

2 Pursuant to A.A.C. R20-4-1209, Petitioners shall file a written answer **within twenty (20)**  
3 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Petitioners' position  
4 or defense and shall specifically admit or deny each of the assertions contained in this Notice of  
5 Hearing. If the answering Petitioners are without or are unable to reasonably obtain knowledge or  
6 information sufficient to form a belief as to the truth of an assertion, Petitioners shall so state, which  
7 shall have the effect of a denial. Any assertion not denied is deemed admitted. When Petitioners  
8 intend to deny only a part or a qualification of an assertion, or to qualify an assertion, Petitioners  
9 shall expressly admit so much of it as is true and shall deny the remainder. Any defense not raised  
10 in the answer is deemed waived.

11 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Petitioners will be**  
12 **deemed in default** and the Superintendent may deem the allegations in this Notice of Hearing as  
13 true and admitted and the Superintendent may take whatever action is appropriate, including  
14 suspension, revocation, denial of Petitioners' license or affirming an order to Cease and Desist and  
15 imposition of a civil penalty or restitution to any injured party.

16 Petitioners' answer shall be mailed or delivered to the Arizona Department of Financial  
17 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or  
18 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,  
19 Arizona 85007 and to Assistant Attorney General Craig A. Raby, Consumer Protection & Advocacy  
20 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

21 **Persons with disabilities may request reasonable accommodations such as interpreters,**  
22 **alternative format or assistance with physical accessibility.** Requests for accommodations must  
23 be made as early as possible to allow time to arrange the accommodations. If accommodations are  
24 required, call the Office of Administrative Hearings at (602) 542-9826.

25 ...

1 FACTS

2 1. Petitioner MMCR Mortgage, LLC ("MMCR") is an Arizona Limited Liability Corporation,  
3 authorized to transact business in Arizona as a mortgage broker, license number MB-0906352,  
4 within the meaning of A.R.S. §§ 6-901, *et seq.*. The nature of MMCR's business is that of making,  
5 negotiating, or offering to make or negotiate loans secured by Arizona real property, within the  
6 meaning of A.R.S. § 6-901(6).

7 2. Petitioner Maribel Peraza ("Ms. Peraza") is a Member of MMCR. Ms. Peraza is authorized  
8 to transact business in Arizona as a mortgage broker within the meaning of A.R.S. § 6-903(E).

9 3. On or about May 10, 2007, a Chandler, AZ appraiser filed a complaint with the Department  
10 criticizing MMCR for failing to pay numerous past due invoices representing properties that were  
11 appraised at the request of MMCR totaling \$4,350.00. The appraiser included copies of the invoices  
12 to confirm that MMCR ordered the appraisals.

13 4. On or about May 14, 2007, the Department sent a copy of the appraiser's complaint  
14 including the unpaid invoices to MMCR's Responsible Individual and requested a response within  
15 ten (10) days. On June 26, 2007, the Department sent a letter to MMCR's Responsible Individual  
16 reminding him to respond to the Department's letter sent on May 14, 2007. On June 27, 2007, the  
17 Department received a telephone call from an employee who identified herself as "Veronica" and  
18 requested that a facsimile of the complaint be sent to her attention for a response.

19 5. On or about July 20, 2007, the Department mailed a third letter to MMCR's Responsible  
20 Individual requesting an immediate response to the complaint and reminding him that failure to  
21 respond to the Superintendent is a violation of the governing statute. On August 15, 2007, the  
22 Department received a letter from MMCR's Maribel Peraza stating that their loan officer did not  
23 adhere to company policy when ordering the appraisals, but stated that she would attempt to resolve  
24 the complaint. On August 17, 2007, the Department mailed a copy of MMCR's response letter to the  
25 complainant and requested his written response. On or about August 24, 2007, the complainant  
26 responded to the Department by stating that he was not aware that MMCR's loan officer failed to

1 follow company policy when the appraisals were ordered and he expects payment in full. The  
2 Department mailed the complainant's letter to MMCR on August 28, 2007, and requested a written  
3 response, but, to date, MMCR has failed to respond, and to the Department's knowledge, has not  
4 satisfied the outstanding obligations to the complainant.

5 6. Based upon the above findings, the Department issued and served upon, MMCR Mortgage,  
6 LLC, and Maribel Peraza an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent  
7 to Entry of Order ("Cease and Desist Order") on October 22, 2008.

8 7. On November 17, 2008, the Department received Petitioners' request for a hearing to appeal  
9 the Cease and Desist Order.

#### 10 LAW

11 1. Pursuant to A.R.S. §§ 6-901, *et seq.*, the Superintendent has the authority and duty to  
12 regulate all persons engaged in the mortgage broker business and with the enforcement of statutes,  
13 rules, and regulations relating to mortgage brokers.

14 2. By the conduct set forth in the Findings of Fact, MMCR and Ms. Peraza violated the  
15 following:

- 16 a. A.R.S. §§ 6-123 and 6-124 by failing to respond to the Superintendent in connection  
17 with an investigation; and
- 18 b. A.R.S. § 6-909(M) by failing to disburse monies to a third party in connection with a  
19 mortgage loan transaction.

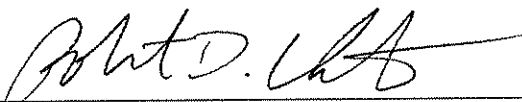
20 3. The violations, set forth above, constitute grounds for: (1) the issuance of an order pursuant  
21 to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to take the  
22 appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent,  
23 to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the  
24 imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the suspension or revocation  
25 of Petitioners' license pursuant to A.R.S. § 6-905; and (4) an order or any other remedy necessary or  
26 proper for the enforcement of statutes and rules regulating mortgage brokers pursuant to A.R.S. §§

1 6-123 and 6-131.

2 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the  
3 above-described violations, the Superintendent may affirm the October 22, 2008, Cease and Desist  
4 Order pursuant to A.R.S. § 6-137; impose a civil money penalty pursuant to A.R.S. § 6-132; suspend  
5 or revoke Petitioners' license pursuant to A.R.S. § 6-905; and order any other remedy necessary or  
6 proper for the enforcement of statutes and rules regulating mortgage brokers pursuant to A.R.S.  
7 §§ 6-123 and 6-131.

8  
9 DATED this 8 day of December, 2008.

10 Felecia A. Rotellini  
11 Superintendent of Financial Institutions

12 By   
13 Robert D. Charlton  
14 Assistant Superintendent of Financial Institutions

15 ORIGINAL of the foregoing filed this 8<sup>th</sup>  
16 day of December, 2008, in the office of:

17 Felecia A. Rotellini, Superintendent of Financial Institutions  
18 Arizona Department of Financial Institutions  
19 ATTN: Susan L. Longo  
20 2910 N. 44th Street, Suite 310  
21 Phoenix, AZ 85018

22 COPY mailed same date to:

23 Diane Mihalsky, Administrative Law Judge  
24 Office of the Administrative Hearings  
25 1400 West Washington, Suite 101  
26 Phoenix, AZ 85007

Craig A. Raby, Assistant Attorney General  
Office of the Attorney General  
1275 West Washington  
Phoenix, AZ 85007

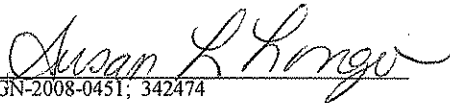
1 Robert D. Charlton, Assistant Superintendent  
Richard Fergus, Division Manager  
2 Richard Traveler, Senior Examiner  
Arizona Department of Financial Institutions  
3 2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

4 AND COPY MAILED SAME DATE by  
5 Certified Mail, Return Receipt Requested, to:

6 Maribel Peraza  
Member  
7 MMCR Mortgage, LLC  
4105 N. 20<sup>th</sup> Street #130  
8 Phoenix, Arizona 85016

9 Maribel Peraza  
Member  
10 MMCR Mortgage, LLC  
3428 E. Indigo Circle  
11 Mesa, Arizona 85213  
Petitioners

12 Claudia Corrales, Statutory Agent for  
13 MMCR Mortgage, LLC  
1831 E. Todd Drive  
14 Tempe, AZ 85283

15 By:   
16 PHX-AGN-2008-0451; 342474